

1 State of New Hampshire Banking Department

2 Case No.: 10-004

3 In re the Matter of:

4 State of New Hampshire Banking Department

5 and

6 Dargon Law Firm P.L.L.C. (a/k/a www.dargonlaw.com) and
7 Daniel Paul Dargon, Esquire

8 **AMENDED NOTICE OF ORDER TO SHOW CAUSE HEARING**

9 **(Amended language appears in bold)**

10 Pursuant to RSA 397-A:17, the Banking Department of the State of New
11 Hampshire (hereinafter the "Department") has the authority to issue an order
12 to show cause why license revocation and penalties for violations of New
13 Hampshire Banking laws should not be imposed. The Commissioner has the
14 further authority to issue a cease and desist order.

15 Pursuant to RSA 397-A:21, the Commissioner has the authority to
16 suspend, revoke or deny any license and to impose administrative penalties
17 of up to \$2,500.00 for each violation of New Hampshire banking laws and
18 rules. Pursuant to RSA 397-A:17,IX, the Commissioner has the authority to
19 impose penalties against a mortgage loan originator in an amount not to
20 exceed \$25,000.00 if the Commissioner finds that such mortgage loan
21 originator has violated or failed to comply with any requirement of the
22 S.A.F.E. Mortgage Licensing Act of 2008, Public Law 110-289, Title V or any
23 regulation or order issued thereunder. Each of the acts specified shall
24 constitute a separate violation.

25 The Department issued to the above named Respondents an Order to Show
Cause and Cease and Desist Order on April 1, 2010. RSA Chapter 541-A

1 requires the Department to hold a hearing on such summary action within ten
2 (10) working days unless otherwise waived by the
3 Respondents. All Respondents filed timely requests for a hearing. All
4 Respondents waived their right to a hearing in ten (10) days on **April 27,**
5 **2010.**

6 The Department alleges the following:

7 1) Dargon Law Firm P.L.L.C.

8 As control person:

9 a) 108 violations of collection of advance fees for loan modifications

10 (RSA 397-A:14, IV(m));

11 b) 108 violations of entering into "best efforts" contract (RSA 397-A:14,

12 IV(b));

13 c) 108 violations of unlicensed loan originations (397-A:3);

14 d) 29 Violations of unlicensed debt settlement services (RSA 399-D:24,

15 V).

16 2) Daniel Paul Dargon, Esq.

17 a) 108 violations of collection of advance fees for loan modifications

18 (RSA 397-A:14, IV(m));

19 b) 108 violations of entering into "best efforts" contract (RSA 397-A:14,

20 IV(b));

21 c) 108 violations of unlicensed loan originations, as principle (RSA 397-

22 A:3; 397-A:21, V);

23 d) EITHER
24
25

1 i) 8 violations of unlicensed loan originations (Actual work on loan
2 modification cases), AND 1 violation of violating a rule of this
3 state (RSA 397-A:2, III) (lack of candor to the court);
4 OR, ALTERNATIVELY,
5 ii) 8 violations of misleading communications (by stating he was
6 assigned the case) (RSA 397-14, IV(n));
7 e) 1 violation of operating as an unlicensed mortgage broker (RSA 397-
8 A:3);
9 f) 2 violations of failure to facilitate bank examination (RSA 397-A:12,
10 VII)
11 i) February 17, 2010
12 ii) May 6, 2010;
13 g) 3 violations of the Graham-Leach-Bliley Act (RSA 397-A:2, III)
14 i) Failure to safeguard client paper files
15 ii) Failure to safeguard client computer files
16 iii) Failure to safeguard partially abandoned office with client
17 files present;
18 h) 3 violations of engaging in any act, practice or course of business
19 which would operate as a fraud or deceit upon any person (RSA 397-A,
20 VI(c));
21 i) Representing that a "forensic audit" of mortgage documents would be
22 completed (RSA 397-14, IV(b));
23 j) Representing Peter Larkowich as a licensed attorney (RSA 397-14,
24 IV(n));
25 k) Representing telemarketers as loan specialists (RSA 397-14, IV(n));

1 1) 29 Violations of unlicensed debt settlement services (RSA 399-D:24,
2 V).

3 Accordingly, an adjudicative proceeding shall be commenced pursuant to
4 RSA 541-A:31 for the purpose of permitting the Respondents to show
5 compliance with the above stated violations.

6 Each party has the right to have an attorney present to represent the
7 party at the party's expense, or may represent itself or himself.

8 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
9 Hampshire Banking Department on Thursday, December 2, 2010 10:00 a.m., at
10 the Department's offices at 53 Regional Drive, Suite 200, Concord, New
11 Hampshire 03301, for the purpose of participating in an adjudicative
12 proceeding, at which time the Respondents will have the opportunity to
13 demonstrate why the relief sought in the Order to Show Cause and Cease and
14 Desist Order should not become permanent; and

15 IT IS FURTHER ORDERED, that if the Respondents elect to be represented
16 by Counsel, said Counsel shall file a notice of appearance at the earliest
17 possible date; and

18 IT IS FURTHER ORDERED, Robert A. Fleury, Deputy Banking Commissioner,
19 will appoint a Hearings Examiner in this matter with authority to represent
20 the public interest within the scope of the Department's authority. The
21 Hearings Examiner shall have the status of a party to this proceeding; and

22 IT IS FURTHER ORDERED, **that a Presiding Officer will be delegated to**
23 **preside over this matter pursuant to RSA 383:7-a and see also RSA 541-A:1,**
24 **XV; and**

25 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
for identification only, and filed with the Department and provided to the

1 opposing party by November 22, 2010. The Hearings Examiner shall pre-mark
2 the Department's exhibits with Arabic numbers. The Respondents shall pre-
3 mark exhibits with capital letters. An index/list of exhibits providing a
4 brief description of each exhibit with its corresponding pre-marked number
5 or letter shall be filed by both parties simultaneous with the filing of
6 exhibits; and

7 IT IS FURTHER ORDERED, that by November 22, 2010, the parties shall
8 exchange a list of all exhibits and witnesses to be called at the hearing
9 with a brief summary at the hearing, and shall at the same time file a copy
10 of their respective lists with the Presiding Officer; and

11 IT IS FURTHER ORDERED, that all periods referenced in this notice
12 shall be calendar days. If the last day of the period so computed falls on
13 a Saturday, Sunday, or legal holiday, then the time period shall be extended
14 to include the first business day that is not a Saturday, Sunday, or legal
15 holiday; and

16 IT IS FURTHER ORDERED, that the Department shall have the burden of
17 setting forth a *prima facie* case, then the Respondents shall have the burden
18 of showing compliance with applicable law by a preponderance of the
19 evidence;

20 IT IS FURTHER ORDERED, that Respondents' failure to appear at the
21 time, date, and place specified may result in the hearing being held *in*
22 *absentia* and/or default ruling in favor of the Department, without further
23 notice or opportunity to be heard; and

24 IT IS FURTHER ORDERED, that the entirety of all verbal proceedings
25 shall be recorded verbatim by the Department. Upon request of any party, or
upon the Presiding Officer's own initiative, such record shall be

1 transcribed by a certified court reporter designated by the Presiding
2 Officer, and that all costs shall be borne solely by the requesting party.
3 Any such request shall be submitted in writing to the Presiding Officer
4 prior to the hearing; and

5 IT IS FURTHER ORDERED, that all documents shall be filed with the
6 Presiding Officer in the form of an original and one (1) copy and shall bear
7 a certification that a copy is being delivered to Hearings Examiner and any
8 other parties to this matter in accordance with applicable laws. All
9 documents shall be filed by mailing or delivering them to the New Hampshire
10 Banking Department, ATTN: Presiding Officer 10-001, 53 Regional Drive, Suite
11 200, Concord, NH 03301. Filing by facsimile or electronic transmission shall
12 not be accepted; and

13
14 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,
15 which shall include findings of fact and conclusions of law, separately
16 stated, no later than ten (10) days following conclusion of the hearing(s) in
17 this matter; and

18 IT IS FURTHER ORDERED, that routine procedural inquiries may be made
19 by telephoning Celia Leonard, General Counsel at (603)271-3561, but all
20 other communications with the Presiding Officer and with the Department
21 shall be in writing and shall be filed as provided above. *Ex parte*
22 communications are forbidden by statute; and

23 IT IS FURTHER ORDERED, that a copy of this Notice of Hearing shall be
24 mailed to all named Respondents at their addresses of record and that a copy
25 shall also be delivered to Celia Leonard, General Counsel and to the
Presiding Officer at the New Hampshire Banking Department.

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2 SO ORDERED AS AMENDED,

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4 /s/
5 Peter C. Hildreth
6 Commissioner
7 By Robert A. Fleury
8 Deputy Bank Commissioner
9 State of New Hampshire
10 Banking Department
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December 1, 2010
Date